

IN THE UNITED STATES BANKRUPTCY  
COURT FOR THE NORTHERN DISTRICT OF  
ILLINOIS EASTERN DIVISION

In re:

Elanar Construction Co.,

Debtor.

Chapter 7

Bankruptcy No. 19-01576

Honorable Judge Timothy A. Barnes

**NOTICE OF MOTION**

TO: See Attached Service List

PLEASE TAKE NOTICE that on **March 18, 2020 at 10:00 a.m.** or as soon thereafter as counsel may be heard, we shall appear before the Honorable Timothy A. Barnes, Bankruptcy Judge, or any judge sitting in his stead, at the United States Bankruptcy Court, 219 S. Dearborn, Chicago, Illinois, Room 744, and shall there present **TRUSTEE'S MOTION TO EMPLOY LEGAL COUNSEL**, a copy of which is attached hereto and is herewith served upon you, and shall pray for the entry of an Order in compliance therewith.

Date: March 11, 2020

Miriam R. Stein, as Trustee for the  
Bankruptcy Estate of Elanar Construction  
Co.,

By: /s/ Daniel J. Nickel

One of her Attorneys

Zane L. Zielinski (6278776)

Daniel J. Nickel (6278133)

THE LAW OFFICE OF

**ZANE L. ZIELINSKI, P.C.**

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**CERTIFICATE OF SERVICE**

I, Daniel J. Nickel, an attorney, state that pursuant to Section II, B, 4 of the Administrative Procedures for the Case Management/Electronic Case Filing System, service of the above referenced **TRUSTEE'S MOTION TO EMPLOY LEGAL COUNSEL** on all persons identified as Registrants on the appended service list was accomplished through the Court's Electronic Notice for Registrants, and, as to all other persons identified on the following service list, I caused a copy of the foregoing document to be served by email to the email addresses described, or served by U.S. First Class Mail, as indicated, on March 11, 2020.

/s/ Daniel J. Nickel

Daniel J. Nickel

**SERVICE LIST**

**Via Court's Electronic Notice for Registrants**

Scott Clar      sclar@cranesimon.com  
Debtor's Counsel

Patrick S Layng      USTPRegion11.ES.ECF@usdoj.gov  
U.S. Trustee

Miriam R. Stein      mstein@gutnicki.com  
Chapter 7 Trustee

Grace Cranley      grace.cranley@dinsmore.com

Elias Gordon      gordanlaw@att.net

Krysta Gumbiner      krysta.gumbiner@dinsmore.com

Gregory J Jordan      gjordan@jz-llc.com

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**Via First Class Mail**

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**IN THE UNITED STATES BANKRUPTCY  
COURT FOR THE NORTHERN DISTRICT OF  
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In re:

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**TRUSTEE'S MOTION TO EMPLOY LEGAL COUNSEL**

Now comes Miriam R. Stein, not individually, but as Trustee for the Estate of Elanar Construction Co. ("Trustee") by and through her counsel, The Law Offices of Zane Zielinski, P.C., and for her Motion to Employ Legal counsel, Zane L. Zielinski ("Zielinski") and The Law Office of Zane Zielinski, P.C. (collectively referred to as the "Firm") retroactive to February 21, 2020, to represent the Trustee:

1. On January 18, 2019, a voluntary petition under Chapter 11 of the United States Bankruptcy Code was filed in the United States Bankruptcy Court for the Northern District of Illinois, Eastern Division.

2. On February 19, 2020, this Court entered an order converting the Debtor's case to a proceeding under Chapter 7. Doc. No. 215.

3. On February 21, 2020, Miriam R. Stein was appointed as the duly appointed, qualified and acting bankruptcy Trustee for the Bankruptcy Estate of Elanar Construction Co.

4. The 341 meeting is scheduled to be held on April 27, 2020.

5. Among the assets of the Estate are, *inter alia*, bank accounts, accounts receivable, avoidance actions and other potential litigation claims.

6. The Trustee requires the assistance of counsel to represent her in matters concerning the liquidation of assets of the Estate, to investigate the financial affairs of the Debtor, to examine and resolve claims filed against assets of the Estate (in particular, claims made by unions and other creditors) and to prepare and prosecute adversary matters and otherwise represent the Trustee in matters before the Court.

#### **RELIEF REQUESTED**

7. The Trustee respectfully requests that the Court authorize her to employ the Firm on the terms and conditions set forth herein and in the Declarations.

8. The predicates for the relief requested herein are 11 U.S.C. §§ 105(a), 327(a), 328(a), and 329, as supported by Rules 2014 and 2016 of the Federal Rules of Bankruptcy Procedure.

#### **BASIS FOR RELIEF**

9. A trustee may employ, with the court's approval, one or more attorneys "that do not hold or represent an interest adverse to the Estate, and that are disinterested persons, to represent or assist the trustee in carrying out the trustee's duties under [the Bankruptcy Code]." 11 U.S.C. § 327(a).

10. The Trustee seeks to retain the Firm as her counsel because (a) the Firm has extensive general experience and knowledge in the field of debtor's and creditor's rights and cases under chapter 7 of the Bankruptcy Code and is experienced in investigating a chapter 7 debtor's assets and pursuing recovery of such assets; (b) the Firm has experience and knowledge practicing before this Court, and (c) the Firm's appearance before this Court for the applications, motions, and other matters in this chapter 7 case will be efficient and cost effective for the Estate. The Trustee believes that the Firm is both well

qualified and uniquely able to represent her in the chapter 7 case in a most efficient and timely manner.

11. The Trustee expects that the Firm will be called upon to render professional services, including, but not limited to, the following:

- a. providing legal advice with respect to the liquidation of the Debtor's assets and administration of the Estate;
- b. reviewing documents from Debtor and third-parties regarding assets;
- c. locating and investigating all assets of the Debtor, including the Debtor's interest in any trusts or business entities;
- d. preparing, on behalf of the Trustee, all necessary applications, motions, adversary proceedings, answers, orders, reports, and other legal papers as required by applicable bankruptcy or non-bankruptcy law, as dictated by the demands of the case, or as required by the Court, and representing the Trustee in any hearings or proceedings related thereto;
- e. appearing in Court and protecting the interests of the Trustee and the Estate before the Court; and
- f. performing all other legal services for the Trustee relating to the recovery of assets that she may deem necessary and proper in this Case.

12. As set forth in the Declaration, the Firm believes that it does not hold or represent an interest adverse to the Estate, and that it is a disinterested person within the meaning of § 327(a).

13. Additionally, pursuant to Bankruptcy Rule 2014(a), the Firm does not have

any connections with the Debtor, their creditors, the United States Trustee or any person employed in the office of the United States Trustee, any other party in interest, or their respective attorneys or accountants that require disclosure.

14. Under the facts as described herein and in the Declarations, the Trustee believes that retention of the Firm satisfies all of the applicable statutory standards enumerated above.

### **COMPENSATION**

15. Section 328(a) of the Bankruptcy Code permits the Trustee, subject to this Court's approval, to employ or authorize the employment of a professional person under Section 327 "on any reasonable terms and conditions of employment, including ... on a contingent fee basis." 11 U.S.C. § 328(a).

16. The Trustee proposes to retain the Firm on an hourly basis and seeks approval under Section 328(a) of the Bankruptcy Code of that arrangement.

17. The normal hourly billing rates for the attorneys at the Law Office of Zane Zielinski P.C. are as follows: Zane Zielinski - \$350.00 per hour. See attached Declaration of Zane Zielinski that sets for the hourly billing rates for all of the Firm's attorneys.

18. The Firm will maintain detailed and contemporaneous records of time and any actual and necessary expenses incurred in connection with the rendering of the legal services contemplated herein by category and nature of the services rendered.

19. The Firm understands that any and all compensation for legal services rendered on behalf of the Trustee shall be subject to Court approval, after notice and hearing, and in accordance with applicable sections of the Bankruptcy Code, Bankruptcy Rules, and Local Rules and Procedures. The Trustee requests that all legal fees and related

costs incurred by the Trustee on account of services rendered by the Firm in this case be paid as an administrative expense of the Estate in accordance with the Bankruptcy Code and any applicable orders entered in this chapter 7 case.

20. Prior to the filing of this Application, the Trustee required that her counsel perform certain routine services, including reviewing schedules and advising her regarding her ability to liquidate certain assets. The Trustee requests that her retention of counsel be made effective as of February 21, 2020.

#### NOTICE

21. Notice of this Application has been given to: (i) the Office of the United States Trustee; (ii) the Debtor; (iii) the Debtor's counsel; and (iv) any person that has requested notice in the Case or that receives notices through the ECF System with respect to the case.

WHEREFORE, Miriam R. Stein, as Trustee for the Estate of Elanar Construction Co., prays this Court enter an Order for the following:

a.) Authorizing the Trustee to employ Zane L. Zielinski and The Law Office of Zane L. Zielinski, P.C., retroactive to February 21, 2020 on a general retainer compensation subject to further Order of Court; and

b.) For such other and further relief as this Court deems appropriate.

Dated: March 11, 2020

Respectfully Submitted,

Miriam R. Stein, as Trustee  
for the Estate of Elanar Construction Co.

By: /s/ Daniel J. Nickel  
One of her Attorneys



Zane L. Zielinski (6278776)

Daniel J. Nickel (6278133)

**THE LAW OFFICE OF**

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